Resolution #TC-2024-05-07
R3, Craig Signals Upgrades, Project Number STM 0132-025, Project Code 25012

Authorizing the Chief Engineer to initiate and conduct condemnation proceedings pursuant to articles 1 to 7 of title 38, C.R.S. for the property specified below.

Approved by the Transportation Commission on May 16, 2024.

Whereas, the Transportation Commission is authorized pursuant to Section 43-1-106(8), C.R.S. to formulate the general policy with respect to management, construction and maintenance of public highways and other transportation systems in the state and to promulgate and adopt all budgets of CDOT; and

Whereas, pursuant to Colorado law at Section 43-1-208, C.R.S., the Colorado General Assembly has conferred the power of eminent domain upon the Transportation Commission to acquire private property necessary for state highways purposes; and

Whereas, on September 26, 2016 the Colorado Supreme Court announced its decision in *Department of Transportation v. Amerco Real Estate Company; U-Haul Company of Colorado; et al.*, 2016SA75; and

Whereas, the *Amerco Real Estate Company* opinion held that the Transportation Commission must decide that the public interest or convenience will be served by a proposed alteration of a state highway and that the Commission's decision must be made in consideration of the portions of land of each landowner to be taken and an estimate of the damages and benefits accruing to each landowner prior to authorizing condemnation of property; and

Whereas, the *Amerco Real Estate Company* opinion also held that the Transportation Commission is authorized to either direct the Chief Engineer to make tender to a landowner or the Transportation Commission can proceed in the acquisition of private lands for state highway purposes, according to articles 1 to 7 of title 38, C.R.S., without tender to the landowner; and

Whereas, the *Amerco Real Estate* opinion further held that the Transportation Commission could delegate to the "legal staff or representatives of the commission or department" the "initiation and conduct of condemnation proceedings." *Amerco Real Estate Company*, 2016SA75, ¶15; and

Whereas, on February 21, 2024, the right of way plans for Craig Signals Upgrades, Project Number STM 0132-025, Project Code 25012 ("Project") were authorized by the Chief Engineer; and

Whereas, pursuant to Colorado law at Section 43-1-208, C.R.S., the authorization of right of way plans by the Chief Engineer allowed CDOT to acquire land necessary for the Project by purchase, exchange, or negotiations with landowners; and

Whereas, CDOT attempted to locate the landowners or their living heirs, but the attempts to locate landowners or any living heirs were unsuccessful; and

Whereas, the Property sought by CDOT may include buildings, structures, or other improvements on the real Property and may also include tenant-owned improvements, personal property, and other real estate; and

Whereas, CDOT does not have possession of the Property, and CDOT's inability to work on the Property will likely cause delay to the Craig Signals Upgrades, Project Number STM 0132-025, Project Code 25012; possibly resulting in significant monetary harm to CDOT; and

Whereas, the Transportation Commission acknowledges that it has reviewed the written report of the Chief Engineer seeking approval to initiate and conduct condemnation proceedings, and the report included all information and documents required pursuant to Section 43-1-208(1), in relation to the Project and the Property; and

Now Therefore Be It Resolved, the Transportation Commission authorizes CDOT to initiate and conduct condemnation proceedings for the following landowner. If acquisition of the Property requires acquisition of buildings, structures, or improvements on real property as well as acquisition of tenant-owned improvements both real and personal property, or other real estate, the Transportation Commission authorizes CDOT to acquire those items through eminent domain proceedings if necessary.

CDOT may initiate and conduct condemnation proceedings for the following landowners or properties:

1. Landowner Name**:** Unknown
   Address of Property: Postal address for the property not currently identified by the Moffat County Assessor's office; parcel located in the Section 1, Township 6N, Range 91W of the 6th P.M., County of Moffat
   Parcel Required: RW-8
   Estimated Property Value, Damages and Benefits (if any): $1,000.00

Herman F. Stockinger III

Herman Stockinger, Secretary
Transportation Commission of Colorado